



State of Utah  
Department of Natural Resources  
Division of Oil, Gas and Mining  
**Coal Regulatory Program Directive**

Directive Number:  
Adm -005

Effective Date:  
July 1, 1997

Supersedes:  
Availability of Records  
Directive Dated June 7, 1995

Subject: **Availability of Records**

Approved: \_\_\_\_\_ On: \_\_\_\_\_  
James W. Carter, Director, Division of Oil, Gas, and Mining

**DISCLAIMER**

*“This non-binding directive is intended for internal direction for the Utah Coal Regulatory Program to clarify the implementation of the Utah Coal Rules. It neither confers rights nor imposes obligations on the Division or any other party. In the case where a conflict is perceived to exist between this directive and the Utah Coal Rules, the rules prevail.”*

**ABSTRACT**

This directive is written to clarify the requirements for making records and mine plans available to the public. There are two main types of information and documents in question: (1) those dealing with Permit Processing and; (2) those dealing with Inspections and Monitoring. Both types of records are to be made available to the public, but the procedures for accomplishing this are different for each type. The Statute and Rules aid in understanding the procedures.

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## 1. Purpose

To clarify the requirements for making records and mine plans available to the public.

## 2. Regulatory Basis

Utah Code Annotated (The ACT) 40-10-19  
Utah Coal Mining Rules R645-300-120, R645-400-140

## 3. Definitions

**"Administratively Complete Application"** means an application for permit approval or approval for coal exploration, where required, which the Division determines to contain information addressing each application requirement of the State Program and to contain all information necessary to initiate processing and public review.

**"Applicant"** means any person seeking a permit, permit change, and permit renewal, transfer, assignment, or sale of permit rights from the Division to conduct coal mining and reclamation operations or, where required, seeking approval for coal exploration.

**"Application"** means the documents and other information filed with the Division under the R645 Rules for the issuance of permits; permit changes; permit renewals; and transfer, assignment, or sale of permit rights for coal mining and reclamation operations or, where required, for coal exploration.

**"Complete and Accurate Application"** means an application for permit approval or approval for coal exploration, where required, which the Division determines to contain all information required under the ACT, the R645 Rules, and the State Program that is necessary to make a decision on permit issuance.

**"Director of the Office"** means the Director of the Office of Surface Mining, Reclamation and Enforcement, U.S. Department of the Interior.

**"Division"** means the State of Utah Division of Oil, Gas and Mining, the designated state regulatory authority.

**"Permit"** means a permit to conduct coal mining and reclamation operations issued by the Division pursuant to the State Program. For purposes of federal lands, permit means a permit issued by the Division pursuant to the cooperative agreement with the Secretary.

**"Permit Change"** means any coal mining and reclamation operations not previously approved by the Division in the Permit or in any previously approved permit change under R645-303-220.

**"Permittee"** means a person holding, or required by the ACT or the R645 Rules to hold a permit to conduct coal mining and reclamation operations issued by the Division pursuant to the State Program or, under the cooperative agreement pursuant to Section 523 of P.L. 95-87, by the Director of the Office and the Division.

**"Public Building"** means any structure that is owned or leased and principally used by a government agency for public business or meetings.

**"Public Office"** means a facility under the direction and control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

## 4. Policy

R645-400-142 and R645-400-143 (Inspections and Enforcements) have been the subject of numerous discussions that have generated a great deal of controversy regarding the need to maintain plans and records in a government office in the county where mining is occurring. These rules read as follows:

142. Copies of all records, reports, inspection materials, or information obtained by the Division will be made immediately available to the public in the area of mining until at least five years after expiration of the period during which the subject

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operations is active or is covered by any portion of a reclamation bond so that they are conveniently available to residents of that area, except:

- 142.100. As otherwise provided by federal law; and
- 142.200. For information not required to be made available under R645-203, R645-300-124; or R645-400-144.
- 143. The Division will ensure compliance with R645-400-142 by either:
  - 143.100. Making copies of all records, reports, inspection materials, and other subject information available for public inspection at a federal, Utah or local government office in the county where the mining is occurring or proposed to occur; or,
  - 143.200. At the Division's option and expense, providing copies of subject information promptly by mail at the request of any resident of the area where the mining is occurring or is proposed to occur. Provided that the Division will maintain for public inspection, at a federal, Utah or local government office in the county where the mining is occurring or proposed to occur, description of the information available for mailing and the procedure for obtaining such information.

Reading these sections alone, one could conclude that all information obtained by the Division should be kept in a county courthouse. However, it is important to remember that these rules are part of a specific section of the R645-400 (Inspection and Enforcement) and the entire set of rules must be reviewed.

Upon reviewing Public Law 95-87, The Utah Code Annotated (The ACT), The R645 Coal Mining Rules, and the 30 CFR there are at least two different and separate processes that require public participation.

### Permitting Process

This section describes the procedure for applications for permits, renewals, and significant revisions. It is clear under R645-300-121.200 that the applicant is responsible to file a copy of the application in the county courthouse:

- 121.200. The applicant will make an application for a permit, significant revision under R645-303-230 available for the public to inspect and copy by filing a full copy of the application with the recorder at the courthouse of the county where the coal mining and reclamation operation is proposed to occur, or an accessible public office approved by the Division. This copy of the application need not include confidential information exempt from disclosure under R645-300-124. The application required by R645-300-121 will be filed by the first date of newspaper advertisement of the application. The applicant will file any changes to the application with the public office at the same time the change is submitted to the Division.

In summary, it is the applicant's responsibility to file a permit application in the county courthouse. There is no discussion, however, about maintaining this copy once the public participation process is completed. Once a permit is issued it is no longer considered an application and there would be no need to have it in the courthouse.

The Division has a responsibility to make all permit applications available to the general public. This is spelled out in R645-300-124 and includes applications for permits, permit changes, permit renewals, and transfers, assignments or sales of permit rights. These records can be obtained at the Division offices in person or in writing or may also be obtained through Government Records Access Management Act (GRAMA) request. There is no requirement on the part of the Division to file these in the county courthouse.

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### **Inspections and Monitoring**

The second process that involved public participation and which is distinct and separate from the foregoing is that associated with "Inspections and Monitoring". This is discussed in Section R645-400 of the Utah Coal Mining Rules and was previously quoted.

Under these rules the Division has the responsibility to provide the public with copies of any records, reports, inspection material, or information that was obtained through the inspection and enforcement avenues. Since it is impractical to maintain these records in each county the best option is to follow R645-400-143.200 and a notice to be posted at each courthouse that described the information available for mailing and the procedure for obtaining such information.

## **5. Delegated Responsibilities**

### **Applicant's Responsibility**

Applications for new permits, significant revisions, and permit renewals must be filed in the county courthouse during the public comment period for the respective action.

### **Division's Responsibility**

All applications for permits, permit changes, permit renewals, and transfers, assignments or sales of permit rights on file at the Division, will be made available at reasonable times, for public inspection and copying. These application are located in the Division's Salt Lake City Office.

Copies of all records, reports, inspection materials, or information obtained by the Division through inspections will be made available to the public in the are of mining. The Division will provide copies by mail upon written request.

The Division will maintain for public inspection at the county courthouse, a description of the information available for mailing and the procedure for obtaining such information.

## **6. Reporting Requirements**

The Permittee must provide a notice in a paper of local circulation that an application for a permit, significant revision or renewal of a permit is on file at the county courthouse.

The Division will make all applications for permits, permit changes, permit renewals, and transfers, assignments or sales of permit rights available to the public for copying and inspection at reasonable times.

Copies of all records, reports, inspection materials, or information obtained by the Division through inspections will be made available to the public in the area of mining. This will best be accomplished by providing copies by mail at the request of the residents of the area.

## **7. References**

Utah Coal Mining Rules - R645  
Code of Federal Regulations - 30 CFR  
Public Law 95-87  
Utah Code Annotated - (The ACT)  
Government Records Access Management Act (GRAMA)

## **8. Effect on Other Documents**

Availability of Records directive dated June 7, 1995.

## **9. Division Contact/Work Group**

Mary Ann Wright, Associate Director of Mining  
Daron R. Haddock, Permit Supervisor  
Pamela Grubaugh-Littig, Permit Supervisor

## **10. Key Words**

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Availability of Records, Permit Processing,  
Inspection and Monitoring.

## **11. Appendices**

Information Notice (copy of notice to be  
filed at each County Courthouse).